

Internal Revenue Service

Number: **201433012**

Release Date: 8/15/2014

Index Number: 831.02-00, 9100.00-00

Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

ID No.

Telephone Number:

Refer Reply To:

CC:FIP:B04

PLR-149183-13

Date:

May 19, 2014

Legend

Company =

Country X =

Individual =

Accountant =

Partnership =

Year 1 =

Year 2 =

Date A =

Date B =

Date C =

Date D =

Date E =

Date F =

Date G =

Date H =

Dear

This is in response to a request submitted on behalf of Company for a ruling granting an extension of time for making an election under section 831(b)(2)(A)(ii) of the Internal Revenue Code pursuant to section 301.9100-3 of the Procedure and Administration Regulations to be effective for Tax Year 1.

The ruling contained in this letter is based upon information and representations submitted by Company as required by section 301.9100-3(e). While this office has not verified any of the material submitted in support of the ruling request, it is subject to verification on examination.

FACTS

Company was formed under the laws of Country X on Date A of Year 1. Upon receipt of its insurance license from the Country X insurance regulator, on Date B of Year 1, Company assumed insurance risks under directly written insurance contracts and it also assumed additional risks under reinsurance agreements. Company states that it qualifies as a property and casualty insurance company under Part II of Subchapter L of the Code. All of the stock of Company is owned by Individual who is Company's President.

Company made a timely election to be treated as a domestic corporation under section 953(d)(1)(D) on Date C of Year 2, which was approved by the Internal Revenue Service in a Notice of Date E of Year 2. Company also filed a timely request for extension of time to file its Year 1 Form 1120-PC, U.S. Property and Casualty Company Tax Return to extend the due date for filing the return until Date H of Year 2.

On Date D of Year 2, Company sent its financial information to Partnership,¹ for the purpose, in part, of coordinating with Accountant on the preparation of Company's Year 1 Form 1120-PC. On Date F of Year 2, Partnership forwarded to Accountant the information necessary to complete Company's return. On Date G of Year 2, Accountant sent Company's proposed Year 1 Form 1120-PC to Individual, Company's President. However, Individual did not file the Form 1120-PC, including the election under section 831(b)(2)(A)(ii), until four days after the due date. Individual represents that prior to the due date of the Form 1120-PC, he was unaware of the necessity to make the section 831(b)(2)(A)(ii) election for the Year 1 by that due date. After the due date (but before he actually filed the Form 1120-PC), Accountant informed Individual that for the election under section 831(b)(2)(A)(ii) to be effective for Year 1 it needed to have been made by the due date. Hence Individual then filed the Form 1120-PC, with the election, as soon as practicable and Company then submitted this request.

LAW AND ANALYSIS

Insurance companies other than life insurance companies are taxable under section 831. However, certain insurance companies can elect to pay an alternative tax provided in section 831(b) on only their taxable investment income. Section 831(b)(2)(A)(ii) requires that a company elect the application of the alternative tax imposed by section 831(b). Pursuant to section 301.9110-8(a)(2)(i), this election must be made by the due date (taking into account any extensions of time to file obtained by the taxpayer) for the first taxable year for which the election is effective.

Under section 301.9100-1(c), the Commissioner may grant reasonable extension of time pursuant to sections 301.9100-2 and 301.9100-3 to make a regulatory election (but no more than 6 months except in the case when the taxpayer is abroad), under all subtitles of the Code except subtitles E, G, H, and I. Section 831(b) is part of subtitle A.

Section 301.9100-3 provides that requests or extensions of time for regulatory elections that do not meet the requirements of section 301.9100-2 (automatic extension) must be made pursuant to section 301.9100-3. Under section 301.9100-3(a), relief will be granted only when the taxpayer provides the evidence to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government.

Under section 301.9100-3(b)(1), a taxpayer is deemed to have acted reasonably and in good faith if the taxpayer: (i) requests relief under this section before the failure to make the regulatory election is discovered by the Internal Revenue Service; (ii) failed to make the election because of intervening events beyond the taxpayer's control; (iii) failed to make the election because, after exercising reasonable diligence (taking into account the taxpayer's experience and the complexity of the return or issue), the taxpayer was

¹ Partnership provides multifaceted insurance related support to Company.

unaware of the necessity for the election; (iv) reasonably relied on the written advice of the Internal Revenue Service; or (v) reasonably relied on a qualified tax professional, including a tax professional employed by the taxpayer and the tax professional failed to make, or advise the taxpayer to make the election.

Under section 301.9100-3(b)(2), a taxpayer will not be considered to have reasonably relied on a qualified tax professional if the taxpayer knew or should have known that the professional was not competent to render advice on the regulatory election or was not aware of all relevant facts.

Under section 301.9100-3(c)(1), the Commissioner will grant a reasonable extension of time to make a regulatory election only when the interests of the Government will not be prejudiced by the granting of relief. The interests of the Government are prejudiced if the granting relief would result in a taxpayer having a lower tax liability in the aggregate for all taxable years affected by the election than the taxpayer would have had if the election had been timely made (taking into account the time value of money).

Based solely on the facts submitted and the representations made, we conclude that the requirements of section 301.9100-1 and 301.9100-3 have been satisfied. Company requested relief under these provisions before the failure to make the regulatory election was discovered by the Service. Company, through Individual, is deemed to have acted in good faith; Company meets four of the five alternative grounds to be deemed to have acted in good faith (Company did not reasonably rely on the written advice of the Service). The interests of the Government are not prejudiced because the election affects the tax liability of only Company and Company will not have a lower tax liability in the aggregate for all taxable years affected by the election than Company would have had if the election had been timely made (taking into account the time value of money).

RULING

Company is granted an extension of time until 60 days following the date of this letter to make the election to be subject to the alternative tax provided in section 831(b)(2)(A) of Year 1.

CAVEATS

Notwithstanding that an extension of time is granted under section 301.9100-3 to make an election under section 831(b)(2)(A), additions, penalties and interest that would otherwise be applicable, if any, continue to apply with respect to the tax return for Year 1.

No ruling has been requested, and no opinion is expressed (or implied) whether Company is engaged in the issuing of insurance or annuity contracts or the reinsuring of risks underwritten by insurance companies; or whether Company qualifies as an

insurance company under section 831(c) for Year 1. (See section 301.9100-1(a) which provides that the granting of an extension of time is not a determination that the Company is otherwise eligible to make the extension.)

A copy of this ruling letter should be attached to a copy of the Year 1 Form 1120-PC and sent to the Service Center to which the original Form 1120-PC was sent.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Pursuant to a power of attorney on file in this office, copies of this ruling are being furnished to your authorized representatives.

Sincerely,

JOHN E. GLOVER
Senior Counsel, Branch 4
Office of the Associate Chief Counsel
(Financial Institutions and Products)